

CITY COUNCIL OVERSIGHT COMMITTEE MINUTES

October 13, 2010

The City Council Oversight Committee of the City of Norman, Cleveland County, State of Oklahoma, met at 5:35 p.m. in the City Council Conference Room on the 13th day of October, 2010, and notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray 48 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Atkins, Griffith, Kovach, and Chairman Dillingham

ABSENT: None

OTHERS PRESENT: Ms. Brenda Hall, City Clerk
Mr. Ken Komiske, Director of Utilities
Mr. Doug Koscinski, Current Planning Manager
Ms. Leah Messner, Assistant City Attorney
Mr. Scottie Williams, Utilities Superintendent
Ms. Syndi Runyon, Administrative Assistant IV

CONTINUED REVIEW OF PROPOSED ORDINANCE REGULATING DUMPSTER PLACEMENT.

In the September 4, 2010, meeting, Mr. Ken Komiske, Director of Utilities, said there is currently no ordinance addressing dumpster placement and while it is difficult to address past issues, it does provide an opportunity to correct future problems. Ms. Leah Messner, Assistant City Attorney, drafted an ordinance that included diagrams that need to be a part of the engineering standards. He said, currently, developers are required to have dumpster locations on a site plan, but there are no requirements stating how far the dumpster must be from a residential neighborhood. Ms. Carol Cole-Frowe previously brought forward a complaint to Council regarding an apartment dumpster just a few feet from her home, which is offensive not only in aesthetics but odor as well, and asked if the City could help with this problem.

Mr. Ken Komiske, Director of Utilities, said the commercial dumpster near Ms. Carol Cole-Frowe's home was moved two weeks ago and, so far, there have been no complaints from the new apartment complex property owners. Mr. Scottie Williams, Utilities Superintendent, said he has talked with Ms. Cole-Frowe and she is happy with the new placement.

Ms. Leah Messner, Assistant City Attorney, said language has been added to the draft ordinance giving the Director of Utilities, or his designee, the authority to waive or modify the set back requirements as potential site limitations may dictate.

Ms. Cole-Frowe asked if the ordinance only applied to preliminary plats and Ms. Messner said it would apply to new construction, which requires location of the dumpster on the plat when adjacent to single family residential property. She said the dumpster would have to be 20 feet away from the property line and it would also apply to a change in zoning or reoccupation of the property if vacant two years or more. Ms. Cole-Frowe asked if it applied to her situation and Ms. Messner said it does not.

Ms. Cole-Frowe said she has always been proud of Norman for sticking up for individual citizens and she cannot believe the City will allow a company to place a dumpster seven feet from someone's house. She said the apartment complex could move the dumpster back near her house anytime they want and there is no law to prevent this.

Ms. Cole-Frowe said she is only asking that the apartment complex be required to place the dumpster 20 feet from residential property and to install an eight foot minimum fence when they replace their current fence. Chairman Dillingham asked Ms. Messner to recap the legal issues from the last meeting and Ms. Messner said there is always difficulty in requiring a retrofit because at the time the properties were built everything was legal and to tell property owners they have to change because it is no longer legal is not something cities are usually able to do. Councilmember Kovach asked if there had been an instance where the City could impose new regulations when there is a change of ownership and Ms. Messner said yes, but it is difficult to track ownership because when property sells, the City is usually not notified. Councilmember Atkins suggested tracking new commercial owners through utility changes.

Ms. Cole-Frowe said the City passed a law that if a business replaced their sign, they had to conform to the current sign ordinance. She said she does not understand why there cannot be some provision for a minimum setback on dumpsters. Ms. Messner said the Committee could do something similar to the commercial lighting ordinance where businesses have to conform to new regulations by a certain timeframe such as five years. Councilmember Kovach asked if it could be a shorter period such as two years and Ms. Cole-Frowe asked why someone would have to live with a dumpster seven feet from their house for two years.

Chairman Dillingham felt the City had to find the most reasonable, fair way to retrofit. She asked Staff to review past retrofit requirements to see what would be a reasonable timeframe. She asked if Staff knew how many non-compliant dumpsters there might be. Ms. Cole-Frowe felt there were just a fraction of commercial dumpsters that are non-compliant and Councilmember Kovach said the Committee only needed to know the dumpsters that abutted residential property. He said if the City forced compliance on current properties, those properties that physically cannot meet the requirement, then the City would need an alternative for them such as fencing. Ms. Messner said the newer properties have masonry walls around their dumpsters, so moving those would create a greater cost, but Chairman Dillingham felt that there would not be anything built recently that would be non-compliant.

Chairman Dillingham asked Staff to gather information on how many commercial dumpsters abut residential property, how many of those are non-compliant, and how many of those could not be brought into compliance. She said the Committee will review that information at its December meeting; however, if the apartment owners asked for the dumpster to be placed back in its original spot near Ms. Cole-Frowe's house before that time, the Committee may need to review the data in its November meeting.

Chairman Dillingham moved the discussion to dumpsters/polycarts being blocked by vehicles and Mr. Komiske said the City is looking at moving the placement of polycarts out of alleyways and onto the front of the streets and each alleyway is being reviewed on an individual basis due to the number of vehicles parked along the street. Mr. Williams said he has driven each alley taking notes that he will compile into data for the Committee's review. Councilmember Atkins asked if there were a lot of alleys, where polycarts cannot be relocated, with obstacles for sanitation trucks such as low hanging utility wires or tree limbs and Mr. Komiske said Code Compliance Inspectors work with property owners to keep trees trimmed; however, it is a summer long process.

Items submitted for the record

1. Memorandum dated October 4, 2010, from Ken Komiske, Director of Utilities, and Susan Connors, Director of Planning and Community Development to City Council Oversight Committee, Councilmember Atkins, Councilmember Dillingham, Councilmember Griffith, Councilmember Kovach
2. Draft ordinance
3. Memorandum dated September 1, 2010, from Linda Price, Revitalization Manager, to City Council Oversight Committee

CONTINUED REVIEW OF PROPOSED ORDINANCE AMENDMENTS FOR SOLICITOR/PEDDLER PERMITS.

Ms. Messner highlighted the suggested amendments to the proposed ordinance as follows:

- ❖ Applicant must provide a current background report from the Oklahoma State Bureau of Investigation (OSBI) - dated no more than 30 days prior to application.
- ❖ Each applicant must file a two year bond in the sum of \$10,000 issued by a corporate surety authorized business in the State payable to the City of Norman to pay all damages to persons caused by, arising from, or growing out of the wrongful, fraudulent or illegal conduct of the licensee while conducting business in the City and also to secure collection and payment of sales tax if applicant does not supply proof of payment within 90 days of expiration of the permit.
- ❖ Each applicant providing a service must file a certificate of insurance for general liability and workers compensation insurance in the amount required by the State of Oklahoma when licensing appropriate trades.
- ❖ Permits for door-to-door soliciting or peddling may be issued for thirty or sixty days, but cannot exceed six months in a calendar year.
- ❖ Permits for outdoor stationery sales may be issued for increments of thirty days up to six months, but cannot exceed six months in a calendar year.
- ❖ A thirty day permit for door-to-door soliciting or peddling would cost \$100 plus \$50 for each additional seller operating under the same license.
- ❖ A sixty day permit for door-to-door soliciting or peddling would cost \$200 plus \$50 for each additional seller operating under the same license.
- ❖ A thirty day permit for outdoor stationery sales would cost \$500.
- ❖ Applications for person previously convicted of murder, manslaughter, kidnapping, robbery, rape, arson, burglary, and grand larceny, as defined by state and federal law, will be reviewed by a Review Board to determine fitness to hold a license.

Chairman Dillingham suggested adding child abuse to the list of crimes and Councilmember Atkins asked if the term "child abuse" is a wide enough scope and Chairman Dillingham asked Ms. Messner to add language appropriate for any crime against children. Ms. Messer said she would review language to try to capture all felonies. Councilmember Atkins asked if there would be a fee for the Review Board process and Ms. Hall said no fees are currently required for other licenses. Councilmember Kovach felt the City did not want to bar access to appeals by charging a fee.

Ms. Brenda Hall, City Clerk, suggested adding times allowed to sell in the ordinance because there had recently been solicitors selling as late as 9:15 p.m. and the police had received several complaints from citizens. Councilmembers discussed time frames and felt 8:00 a.m. to 8:00 p.m. would be adequate.

In prior meetings, the Committee had inquired if a Commercial Drivers License (CDL) was needed by applicants driving groups of sellers in minivans and Ms. Messner reviewed the types of vehicles that require a CDL and said minivans do not fall into that category.

Councilmembers were satisfied with the proposed ordinance, but wanted to review Mobile and Temporary Food Permits in November then bring the proposed ordinances forward to Council at the same time. Ms. Hall said Staff has been gathering information and preparing proposals to submit to the Committee regarding mobile/temporary food. She said the State Health Department Mobile Food regulations will have new guidelines effective July 2011, and Staff wants to make sure City guidelines are consistent with the Health Department's.

Items submitted for the record

1. Memorandum dated October 4, 2010, from Leah Messner, Assistant Attorney, through Jeff Bryant, City Attorney, to City Council Oversight Committee, Councilmember Atkins, Councilmember Dillingham, Councilmember Griffith, Councilmember Kovach
2. Draft ordinance

MISCELLANEOUS DISCUSSION.

None

The meeting adjourned at 6:33 p.m.